

Appl. No.: 09/912,814

Amendment Dated: 10/11/06

Reply to OA of 4/11/06

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**REMARKS**

This amendment is responsive to the Action dated April 11<sup>th</sup>, 2006, in which the rejection of claims 1-31 was made final. Accordingly, Applicant files herewith a Request for Continued Examination along with a Petition for a three (3) month extension of time, thereby extending the time for response to the Action to October 11<sup>th</sup>, 2006.

With this response, Applicant has amended claims 1, 30 and 31 as provided above. Support for the amendments can be found in the original specification, claims and/or drawings. In this regard, no new matter has been introduced. Accordingly, with this response claims 1-31, as selectively amended, remain pending.

This response and amendment is intended to be a full and complete response to the outstanding Office Action. In view of the foregoing amendments and the following remarks, favorable reconsideration of the subject application is respectfully requested.

**§102(b) Rejection of Claim 30**

In paragraph 5, the Action maintained a previous 102(b) rejection of claim 30 based on the Ward (USP 5,701,294) reference. In response, Applicant has overcome the rejection of such claims.

Without accepting/adopting the characterization of the claims and/or the cited reference, Applicant has taken this opportunity to amend certain of the claims, as above, for purposes of clarification. Applicant respectfully submits that the cited reference fails to anticipate or suggest at least the feature of:

setting a number of sub-carriers to comprise the multi-carrier wireless communication channel and one or more of a number of timeslots, modulation rate, coding rate and transmit power allocated to select sub-carriers of the one or more sub-

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carriers of the multi-carrier communication signal for transmission to the subscriber unit based upon the class type (as amended).

Accordingly, Applicant respectfully submits that the Ward reference fails to anticipate claim 30 under the conditions of §102(b) and, as such, Applicant respectfully requests that the rejection of such claim be withdrawn.

**§103(a) Rejection of Claims 1-3, 23, 24, 26, 27 and 31**

In paragraph 6 of the Action, claims 1-3, 23, 24, 26, 27 and 31 were rejected as being unpatentable over the Ward reference in view of a reference authored by Tong et al. (US Publication 2001/0038630) pursuant to 35 USC §103(a). In response, Applicant has overcome the rejection of such claims.

Without accepting/adopting the characterization of the claims and/or the cited references, Applicant has taken this opportunity to amend certain of the claims, as above, for purposes of clarification. Applicant respectfully submits that the cited references fail to disclose or suggest at least the combination of features added through amendment in, e.g., rejected claim 1. For example, Applicant respectfully submits that the Ward and Tong references fail to disclose or suggest:

adjusting a number of sub-carriers comprising the multi-carrier communication signal and one or more of a number of timeslots, modulation rate, coding rate and transmit power allocated to select sub-carrier(s) of the one or more sub-carriers comprising the multi-carrier communication signal for transmission with the user based upon the class type (as amended).

For example, the combination of references fails to teach dynamically adjusting the number of sub-carriers comprising the multi-carrier communication channel while also dynamically

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adjusting one or more of the number of timeslots, modulation rate, coding rate and/or transmit power on a per-subcarrier basis, as provided in the claims. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over the cited combination of references.

Applicant notes that claims 2, 3, 23, 24, 26 and 27 depend from patentable base claim 1, as amended. In addition to any independent bases for patentability, Applicant respectfully submits that claims 2, 3, 23, 24, 26 and 27 are likewise patentable over the cited references by virtue of at least such dependency on patentable base claim 1. Thus, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

Applicant respectfully submits that amended claim 31 is similarly patentable over the cited references using arguments analogous to those presented above.

#### **§103(a) Rejection of Claims 4-5 and 7-8**

In paragraph 7 of the Action, claims 4, 5, 7 and 8 were rejected as being unpatentable over the Ward reference in view of the previously cited Freeburg reference pursuant to 35 USC §103(a). In response, Applicant has overcome the rejection of such claims.

Without accepting/adopting the characterization of the claims and/or the cited references, Applicant has taken this opportunity to amend certain of the claims, as above, for purposes of clarification. Applicant respectfully submits that the cited references fail to disclose or suggest at least the combination of features added through amendment in, e.g., rejected claim 1, in accordance with the arguments presented above. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over the cited combination of references.

Applicant notes that claims 4, 5, 7 and 8 depend from patentable base claim 1, as amended. In addition to any independent bases for patentability, Applicant respectfully submits

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that claims 4, 5, 7 and 8 are likewise patentable over the cited references by virtue of at least such dependency on patentable base claim 1. Thus, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

**§103(a) Rejection of Claims 6 and 9**

In paragraph 8 of the Action, claims 6 and 9 were rejected as being unpatentable over Ward in view of Tong, Freeburg and the previously cited Chen reference pursuant to 35 USC §103(a). In response, Applicant has overcome the basis for the rejection of such claims.

Without accepting/adopting the characterization of the claims and/or the cited references, Applicant has taken this opportunity to amend certain of the claims, as above, for purposes of clarification. Applicant respectfully submits that the cited references fail to disclose or suggest at least the combination of features added through amendment in, e.g., rejected claim 1, in accordance with the arguments presented above. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over the cited combination of references.

Applicant notes that claims 6 and 9 depend from patentable base claim 1, as amended. In addition to any independent bases for patentability, Applicant respectfully submits that claims 6 and 9 are likewise patentable over the cited references by virtue of at least such dependency on patentable base claim 1. Thus, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

**§103(a) Rejection of claims 10, 12, 13 and 17-22**

In paragraph 9 of the Action, claims 10, 12, 13 and 17-22 were rejected as being unpatentable over the Ward and Tong references in further view of the previously asserted Gitlin

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reference pursuant to 35 USC §103(a). In response, Applicant has overcome the rejection of such claims.

Without accepting/adopting the characterization of the claims and/or the cited references, Applicant has taken this opportunity to amend certain of the claims, as above, for purposes of clarification. Applicant respectfully submits that the cited references fail to disclose or suggest at least the combination of features added through amendment in, e.g., rejected claim 1, in accordance with the arguments presented above. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over the cited combination of references.

Applicant notes that claims 10, 12, 13 and 17-22 depend from patentable base claim 1, as amended. In addition to any independent bases for patentability, Applicant respectfully submits that claims 10, 12, 13 and 17-22 are likewise patentable over the cited references by virtue of at least such dependency on patentable base claim 1. Thus, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

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**CONCLUSION**

In light of at least the foregoing reasons, Applicant respectfully submits that claims 1-31, as selectively amended, are in condition for allowance and such action is earnestly solicited. *The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.*

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,  
LUC HAUMONTE

Date: October 11, 2006

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